

City of Seattle

Edward B. Murray, Mayor

Seattle Department of Planning and Development

Diane M. Sugimura, Director

RECEIVED
APR 10 2014
Councilmember Sally Clark

April 8, 2014

Councilmember Sally Clark, Chair
Committee on Housing Affordability, Human Services and Economic Resiliency
Seattle City Hall
600 Fourth Avenue, 2nd Fl.
Seattle, Washington 98104

RE: CB 117991

Dear Councilmember Clark:

I understand City Council's Committee on Housing Affordability, Human Services and Economic Resiliency (CHASER) recently referred Council Bill 117991 to the full Council for consideration. This bill, if passed by the full City Council would (1) limit future on-premise wall signs in commercial, Seattle Mixed, industrial and downtown zones to an area of no more than 672 square feet except that for facilities that seat 40,000 or more spectators, the maximum area is 3,000 square feet; (2) clarify the definitions of wall signs and on-premises signs; and (3) increase penalties for certain violations of the Land Use Code related to signs.

As the sponsor of the bill, you have indicated that under this bill, on-premise wall signs already permitted by the City would be "nonconforming" or "grandfathered." It is our understanding that your intent is to allow those signs, which were legally-established but are now nonconforming to the area limit, to remain after adoption of the legislation. However, except for a handful of signs as described below, gift certificates or coupons or access by phone, computer or similar device cannot serve as the basis for concluding a sign is an on-premises sign after the effective date of the legislation. Your intent is consistent with the Seattle Municipal Code and the law on non-conformities

Area Limit: DPD determined that based on permit records kept over the past ten years for permitted on-premise signs, the average area of wall signs approved during that period was 83 square feet and 97% of these signs were smaller than 287 square feet. Less than 2% of all on-premises wall signs permitted in the past ten years are 672 square feet or larger. If CB 117991 is adopted by the City Council, any complete wall sign application that has been received prior to the effective date of the legislation and subsequently approved by DPD that is 672 square feet in area or larger would be considered nonconforming to the new area limit.

The provisions applicable to wall signs nonconforming to the area limit are in Seattle Municipal Code (SMC) Section 23.42.112, which regulates all structures nonconforming to development standards. Under SMC 23.42.112, any business establishment that had obtained a sign permit for an on-premise



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wall sign that was 672 square feet or larger and that has not been discontinued may maintain, renovate, repair or structurally alter the sign but the sign may not be expanded or extended in any way that increases the nonconformity. See SMC 23.42.112.A. The business establishment may change copy, provided the sign is not removed from its permitted location for more than 12 months or it may replace it with the same or smaller-size sign if it is damaged, for example, by fire or weather. SMC 23.42.112.B and C.

This is consistent with the Seattle Building Code:

SBC Section 3107.8 Nonconforming signs. A nonconforming sign is a sign or any portion thereof which, because of its location or construction, could not lawfully be reconstructed in its present location. A nonconforming sign shall have no additions or structural or electrical alterations thereto.

Exception: Minor additions or alterations which the building official finds necessary in the interest of safety.

Definitions: The legislation also clarifies two definitions including "sign, wall" and "sign, on-premises." An on-premises sign is a sign or sign device used solely by a business establishment on the lot where the sign is located. The sign must indicate the business transacted, principal services rendered, goods sold or produced on the premises.

CB 117991 seeks to clarify that the use of gift certificates, coupons or access by phone, computer or similar device does not constitute "business transacted, principal services rendered, goods sold or produced on the premises." The change to the definition of "on-premises sign" will be applicable to all on-premises signs – both those already permitted and new wall signs – once the legislation becomes effective.

In general, after the effective date of the wall sign legislation, any signs that rely on the following as the basis to establish that a sign is being used for on-premises purposes will not be approved by DPD:

- the sale or donation of a gift card, gift certificate, coupon or other document that can be exchanged in part or whole for an item or good that is not directly sold or produced or service rendered on-site; or
- access by phone, computer or any other device to allow a person to obtain an item or good that is not directly sold or produced or service rendered on the site where the access by phone, computer or other device is offered.

Where DPD specifically approved use of a gift certificate or the like or use of a phone, computer or the like before the change to the definition was adopted, that sign could continue but must conform to the clarified definition as set forth below. In the past, DPD permitted less than a handful of sign permits that authorized the use of gift cards or coupons as the basis for concluding the sign constituted an on-premises sign. Based on DPD's research, in several of those instances, the business establishment subsequently closed and the sign, if it has not already been removed, must come down.¹ DPD is not aware that it has ever approved as part of a sign permit, use of phone, computer or any other device to

¹ Seattle Building Code, section 3107.7.2 (2012) provides: **Closure of business — abandoned signs.** Upon the closure and vacation of a business or activity, the operator of the business or activity is responsible for the removal of all signs relating to the business or activity within 90 days from the date of such closure. If the operator of the business or activity fails to remove the signs within the designated time period and the business or activity is not reoccupied or resumed during the 90-day period, then the owner of the premises upon which the signs are located is responsible for the removal of the signs within 180 days from the date of closure and vacation of the premises.

allow a person to obtain an item or good that is not directly sold or produced or service rendered on the site where the access by phone, computer or other device is offered.

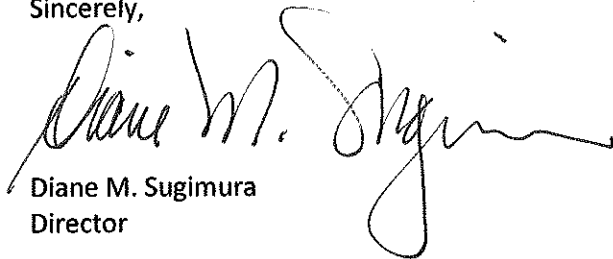
In the handful of signs where a gift certificate was used or if a phone, computer or other device was authorized by DPD to establish a sign as being used for on-premises purposes, and the business establishment can show that it is the same business establishment that received the original permit and the copy remains the same as what was approved by DPD, then use of the gift certificate or use of a phone or computer can continue until a subsequent change of copy occurs. Once a change of copy occurs, the sign must then conform to the new definition or face enforcement.

The clarification to the definition of "sign, wall" as amended will apply from the date the legislation is effective.

If you have questions about on-premises wall signs or other sign related matters, please contact the Sign Manager, Dick Alford at dick.alford@seattle.gov or 206-684-8421. You may also contact Steve Sampson, Sign Inspector, at steve.sampson@seattle.gov or 206-684-8419.

Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read "Diane M. Sugimura". The signature is fluid and cursive, with a large, sweeping "S" at the end.

Diane M. Sugimura
Director